



# California Regional Water Quality Control Board

## San Diego Region



Terry Tamminen  
Secretary for  
Environmental  
Protection

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Arnold Schwarzenegger  
Governor

September 14, 2004

**Certified Mail Return Receipt Requested**  
7004 1160 0007 0736 1233

Deborah Van Huis, Director of Forward Planning  
KB Home Coastal Inc.  
12235 El Camino Real Suite 100  
San Diego, California 92130-2006

In reply refer to: **CA:14-1033.02:melbf**

Dear Ms. Van Huis:

### **Resolution No. R9-2004-0264, Mar Lado Pump Station**

Enclosed is a copy of Resolution No. R9-2004-0264, *Settlement Of Potential Liability Against KB Home Coastal Inc. for Violations of Order No. 2001-96, NPDES No. CAG919002 General Waste Discharge Requirements for Groundwater Extraction and Similar Waste Discharges From Construction and Remediation Projects to Surface Waters Within The San Diego Region, Except For San Diego Bay*, that was adopted on September 8, 2004 by the California Regional Water Quality Control Board, San Diego Region (Regional Board). The Regional Board deposited KB Home Coastal Inc.'s \$5,000 check into the State Water Pollution Cleanup and Abatement Account, and there is nothing further required of KB Home Coastal Inc. in regards to this matter.

The heading portion of this letter includes a Regional Board code number noted after "In reply refer to:" In order to assist us in the processing of your correspondence please include this code number in the heading or subject line portion of all correspondence and reports to the Regional Board pertaining to this matter.

Please contact Frank Melbourn (858) 467-2973 or via email at [melbf@rb9.swrcb.ca.gov](mailto:melbf@rb9.swrcb.ca.gov) if you have any questions concerning this matter.

Sincerely,

JOHN H. ROBERTUS  
Executive Officer

JHR:mpm:ftm

Enclosure: Resolution No. R9-2004-0264

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**California Environmental Protection Agency**

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**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
SAN DIEGO REGION**

**RESOLUTION NO. R9-2004-0264**

**SETTLEMENT OF POTENTIAL LIABILITY  
AGAINST  
KB HOME COASTAL INC.  
FOR VIOLATIONS  
OF**

**ORDER NO. 2001-96, NPDES NO. CAG919002  
GENERAL WASTE DISCHARGE REQUIREMENTS FOR GROUNDWATER  
EXTRACTION AND SIMILAR WASTE DISCHARGES FROM CONSTRUCTION AND  
REMEDIATION PROJECTS TO SURFACE WATERS WITHIN THE SAN DIEGO  
REGION, EXCEPT FOR SAN DIEGO BAY**

*Whereas*, KB Home Coastal Inc. (hereinafter KB Home) filed a Notice of Intent to discharge extracted groundwater from KB Home's Mar Lado Pump Station (located at 401 Foussat Road in Oceanside, San Diego County) to the San Luis Rey River under *Order No. 2001-96, NPDES NO. CAG919002, General Waste Discharge Requirements For Groundwater Extraction And Similar Waste Discharges From Construction And Remediation Projects To Surface Waters Within The San Diego Region, Except For San Diego Bay* (hereinafter Order No. 2001-96); and

*Whereas*, on March 11, 2004, KB Home submitted a monitoring report that documented apparent violations of the effluent limitations of Order No. 2001-96 for Turbidity (chronic violation), Total Nitrogen Instantaneous Maximum (serious violation), Total Nitrogen Average Monthly (serious violation), and Total Phosphorus Average Monthly (serious violation) subject to Mandatory Minimum Penalties under Section 13385 of the Water Code on January 7, 2004, for which the Executive Officer of the California Regional Water Quality Control Board, San Diego Region (hereinafter Regional Board) issued Complaint No. R9-2004-0116, Administrative Assessment of Civil Liability for Mandatory Minimum Penalties (hereinafter Complaint) in the amount of \$12,000; and

*Whereas*, on May 26, 2004, KB Home provided written documentation refuting the allegation in Complaint No. R9-2004-116 that there was a discharge to the San Luis Rey River on January 7, 2004 that violated the effluent limitations in Order No. 2001-96; and

*Whereas*, KB Home has offered to settle the potential liability resulting from submitting inaccurate reports, without admission of liability by tendering \$5,000 for deposit into the State Water Pollution Cleanup and Abatement Account; and


*Whereas*, the Regional Board published notice of KB Home's settlement offer in the North County Times on July 10, 2004 and no comments were received during the 30-day public comment period; and

*Whereas*, by accepting the settlement offer tendered by KB Home, the Regional Board will conserve valuable staff resources that would have been allocated to any enforcement action against KB Home, including preparation for the hearing and responding to any request for administrative or judicial review by KB Home; the tendered amount is sufficient to deter KB Home from future errors in reporting, and should act as a deterrent to others; and

*Whereas*, the Regional Board has incurred costs in the amount of approximately \$2,520 in response to KB Home's erroneous monitoring report (28 hours at \$90 per hour).

***THEREFORE BE IT RESOLVED***, that the California Regional Water Quality Control Board, San Diego Region, hereby directs the Executive Officer to execute an agreement with KB Home accepting the payment of \$5,000 to the State Water Pollution Cleanup and Abatement Account in lieu of any formal enforcement proceeding to impose civil liability on KB Home for possible violations associated with Order No. 2001-96 on January 7, 2004.

This Resolution was adopted by the California Regional Water Quality Control Board, San Diego Region on September 8, 2004.

  
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JOHN H. ROBERTUS  
Executive Officer